IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6646 of 2005

Between:

1. Nagaram Narsimlu, S/o. Venkaiah
   R/o. H.No. 1-4-617, Panchamukha Hanuman Colony, Vadloor Road, Kamareddy, District Nizamabad.
2. Nagaram Venkaiah S/o. Nagaram Sattaiahm
   R/o. H.No. 1-4-420, Panchamukha Hanuman Colony, Vadloor Road, Kamareddy, District Nizamabad.
3. Nagaram Venkatamma W/o. narsimlu
   R/o. Near Bairaiah Hospital, Godown Road, Kamareddy, District Nizamabad.

... PETITIONERS

AND

The Mandal Revenue Officer, Kamareddy Mandal, District Nizamabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order passed by the respondent in Proceedings No. A2/6689/2005, dt. 7-1-2005 in canceling assignments made in favour of the petitioners as illegal, arbitrary and violation of principles of Natural Justice and consequently set-aside the same.

Counsel for the Petitioner: MR.S.BHOOMA GOUD

Counsel for the Respondent: GP FOR REVENUE

The Court at the stage of admission made the following:

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ORDER:

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This writ petition is filed aggrieved by the order dated 07-01-2005 passed by the respondent-Mandal Revenue Officer thereby canceling the assignment granted in favour of the petitioners.

It is not in dispute that before passing the said order, a show cause notice dated 30-11-2002 was issued to the petitioners stating that as per the instructions of the Joint Collector, Nizamabad dated 18-11-2002 spot inspection of Government lands assigned to landless poor was conducted on 24-11-2002 and it was noticed that the persons to whom the Government lands were assigned in the year 1978 have not occupied the land and not developed it for agricultural purpose and therefore calling upon them to submit their explanation. The petitioners state that all the allegations made in the show cause notice are incorrect and a detailed explanation was submitted denying the allegations made therein, however, the respondent-Mandal Revenue Officer passed the impugned order without properly appreciating the explanation submitted by the petitioners. Hence, this writ petition seeking a declaration that the order of cancellation dated 07-01-2005 is arbitrary and illegal.

At the out set, the learned Government Pleader, raised an objection as to the maintainability of the writ petition contending that against the impugned order dated 07-01-2005 an efficacious alternative remedy is available by way of appeal under Section 4-A of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. The learned counsel for the petitioners does not dispute the same but states that since the impugned proceedings were initiated on the basis of the instructions of the Joint Collector, Nizamabad, the petitioners apprehend that the appeal will be an empty formality and appellate authority, being a subordinate officer to the Joint Collector, may not act independently.

In the circumstances, the writ petition is disposed of granting leave and liberty to the

petitioners to workout the alternative remedy of appeal, as provided under the Act, within a period of two weeks from today. It is made clear that in the event of preferring such an appeal, the appellate authority shall consider the same independently, without being influenced by the observations, if any, made in the instructions issued by the Joint Collector dated 18-11-2002 and pass appropriate orders in accordance with law, on the basis of the material that may be placed before him by the petitioners in support of their claim. It is also made clear that for a period of four weeks from today, the respondent shall not implement the impugned order. No order as to costs.

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G. ROHINI, J

Dated: 29-03-2005

Note: Issue operative portion by wire

at party's costs.

B/o.

LSK

To

1. The Mandal Revenue Officer, Kamareddy Mandal, District Nizamabad.

2. Two C.Cs. to the G.P. for Revenue, High Court Buildings,
Hyderabad. (OUT)

3. Two C.D. copies.